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STATE OF NEW JERSEY
DEPARTMENT OF LAW & PUBLIC SAFETY
DIVISION OF CONSUMER AFFAIRS
BOARD OF REAL ESTATE APPRAISERS

IN THE MATTER OF

Dennis McCarthy
License No. RC00104800

LICENSED TO PRACTICE AS A
REAL ESTATE APPRAISER
IN THE STATE OF NEW JERSEY

Administrative Action

FINAL ORDER
OF DISCIPLINE

FILED
BOARD OF
REAL ESTATE APPRAISERS

James S. Hsu
DR. JAMES S. HSU
Executive Director

10/9/07

This matter was opened to the New Jersey State Board of Real Estate Appraisers ("Board") following the Board's receipt of information relating to Dennis McCarthy ("respondent") and his compliance with the Board's regulations regarding continuing education. Following its review, the Board, on April 9, 2007, issued a corrected Provisional Order of Discipline provisionally finding that respondent had failed to complete the required continuing education hours for the 2004-2005 renewal period and that respondent had certified on his biennial renewal application that he had in fact completed the required course work.

In response to the Provisional Order, respondent submitted two letters (dated March 19, 2007 and May 1, 2007) to the Board. In his March 19, 2007 letter, Mr. McCarthy referred the Board to his initial response to the Board's audit request in April, 2006. At that time, and again in his 2007 letters, respondent, essentially acknowledging the conduct underlying the order, stated that his failure to complete the requirements within the time period was based on a mistake on his part. He believed a course he had taken in October 2003 was within the regulatory time frame. He further apologized for his error, denied any

intent to mislead, and submitted proof that he had indeed completed the required hours upon realization of his mistake.

The deputy attorney general prosecuting the matter replied to Mr. McCarthy's submissions by letter dated May 15, 2007. While she acknowledged that he had completed the required course work after being advised by the Board (and thus no suspension was required), the deputy attorney general noted that even if there was no deliberate falsification on his renewal, respondent could easily have checked his records and avoided the situation. She concluded that the Board, after review of the record, should exercise its discretion in determining the appropriate sanction.

The Board considered this matter at its meeting on July 10, 2007. The Board reviewed respondent's submissions and determined that further proceedings were not necessary as no material discrepancies had been raised. The Board, however, was persuaded by respondent's explanation in mitigation - that is, he erroneously certified on his renewal that he had completed the required hours in the relevant time period, and that he did not deliberately falsify that document. Nonetheless, the Board has concluded that respondent did fail to complete the required continuing education, and while he has since made up the hours, he violated the Board's regulations governing the practice of real estate appraising, which are designed to protect the public through ensuring continuing competency. The Board has therefore determined that it will not impose a reprimand on respondent but will assess the civil penalty as set forth in the Provisional Order.

Therefore, the Board makes the following findings of fact and conclusions of law:

FINDINGS OF FACT

1. Respondent is a real estate appraiser in the State of New Jersey, and has been a licensee at all relevant times.

2. The Board conducted a continuing education audit in 2006, asking a random sampling of its licensees for documentation of continuing education completed during the 2004-2005 licensing period.
3. Respondent submitted documentation in response to this audit which was received on April 10, 2006.
4. Respondent did forward proof of successful completion of the 7-hour Uniform Standards of Professional Appraisal Practice ("USPAP") course.
5. Respondent submitted documentation of having completed a total of twenty-two (22) credit hours of continuing education prior to December 31, 2005.
6. Respondent certified upon respondent's renewal application for the 2006-2007 licensure renewal period that respondent had completed the continuing education requirement during the previous biennial licensure renewal period.
7. Respondent certified upon respondent's renewal application for the 2006-2007 licensure renewal period that respondent had completed a USPAP course.
8. Respondent is required pursuant to N.J.A.C. 13:40A-5.3-5.4 to have completed the equivalent of fourteen (14) classroom hours of instruction for each year during the period preceding renewal. The continuing education completed must include either a seven (7) or fifteen (15) hour USPAP course.¹
9. Respondent for the biennial period of 2004-2005 only completed twenty-two (22) hours of continuing education, when a total of twenty-eight (28) hours were required, making respondent six hours shy of the required total continuing education hours.

¹ 2004 was the last year that the 15-hour USPAP course could be used to satisfy the USPAP continuing education requirement.

10. The Board sent a letter dated March 24, 2006, requesting documentation from respondent of the twenty-eight (28) hours of continuing education.

11. Respondent completed seven and one half (7 1/2) hours of continuing education on April 28, 2006, to remedy the six (6) hour deficiency of continuing education hours that should have been completed in 2004 and/or 2005. Respondent sent the Board documentation of these hours on May 1, 2006.

CONCLUSIONS OF LAW

1. Respondent's failure to successfully complete continuing education requirements for licensure during the 2004-2005 biennial renewal period constitutes a violation of N.J.A.C. 13:40A-5.3-5.4, subjecting respondent to sanctions pursuant to N.J.S.A. 45:1-21 (e) and (h).

ACCORDINGLY, IT IS on this 7th day of October, 2007,

ORDERED that respondent is assessed a civil penalty in the amount of five hundred (\$500) for violation of N.J.S.A. 45:1-21(e) and (h). Payment shall be made within 30 days of the entry of this Final Order of Discipline.

NEW JERSEY STATE BOARD OF
REAL ESTATE EXAMINERS

By Stephen P. Giocondo
Stephen P. Giocondo
Board President